## REMARKS

This paper responds to the most recent Office action. As the Examiner will appreciate, the subject matter of each of dependent claim 4, 11 and 18 (i.e., "preventing the user from accessing resources that are in the set of authorized resources but that are not in the set of entitled resources") has been incorporated into each independent claim to further distinguish the invention over the cited art.

## Alleged non-statutory subject matter

Claims 15-21 were rejected under 35 USC § 101 as directed to non-statutory subject matter because the "computer readable medium includes encoded signals." Respectfully, this rejection is traversed.

The preamble of each such claim recites a "computer program product in a computer readable medium," and such a medium is a "manufacture" within the meaning of 35 U.S.C. §101. Moreover, the specification (at page 29, lines 10-11) provides several examples of such a manufacture in the form of "EPROM, ROM, tape, paper, floppy disc, hard disk drive, RAM, and CD-ROMs", and it is not seen how inclusion of "transmission-type media" (in the list, at line 12) renders these other media types non-statutory.
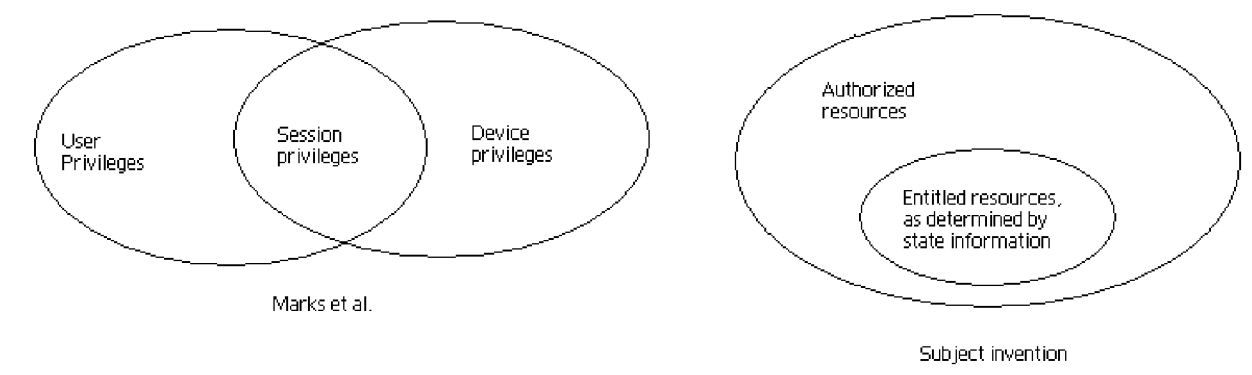
## Alleged anticipation

Claims 1-21 were rejected under 35 USC § 102(b) as being anticipated by Marks et al, U.S. Publication No. 2002/0010768. Respectfully, and for the reasons advanced in response to the prior Office action, this rejection is traversed. Nevertheless, in an effort to advance this prosecution, the "preventing the user from accessing resources that are in the set of authorized resources but that are not in the set of entitled resources" function (from each of dependent claim 4, 11 and 18) has been incorporated into each independent claim.

In general, the subject disclosure concerns "a process for determining a set of resources to be shown to a user that are specifically authorized for the user and that have been specifically entitled for the user based on computational status information about the server-side environment." [0044]. An advantage of the disclosure is that it "proactively prevents users from obtaining an ability to request certain resources because of the state of the server-side system, even though the user would be authorized to request those resources under different server-side conditions; the user's entitled resources are always a subset of the user's normally

authorized resources, although the set of entitled resources may be equal to or as extensive as the set of authorized resources." [0052].

Marks et al manage networked devices to allow tracking and dynamic generation of access privileges across multiple terminals and for multiple registered users. In their system, a user has a set of user privileges that is based on a user profile. The user profile includes the class of the user and a set of user privileges and settings (e.g., application licenses, bookmarks, file access privileges, network access privileges, page access privileges, and the like). The system also has available to it so-called "device privileges," which are obtained from an "asset database." A device privilege describes a terminal profile for a given terminal. The terminal profile includes a set of device privileges (e.g., applications available, network connections, and the like). [0047-48]. When an authorized user of the network logs in at a terminal, the user is provided with "session privileges" that are the intersection of the individual user privileges and the device privileges of the device on which the user is logged in. The "user has access to all resources that the user has rights to, so long as those resources are available (based both on technical availability and usage policy) to the specific terminal being used regardless of the terminal being used and the location of the terminal." [0017].

The differences between the subject disclosure and Marks et al may be visualized as follows:

User Privileges    Session privileges    Device privileges

Marks et al.

Authorized resources

Entitled resources, as determined by state information

Subject invention

As can be seen, in the subject disclosure the resources actually exposed to the user (namely, the "entitled resources") are a function of the "state" (e.g., the current computational state) of those resources. Each of the subject claims emphasize this feature by requiring the explicit functions of "obtaining state information about the set of authorized resources" and "evaluating availability of the set of authorized resources based upon the state information ..."

While <u>Marks et al</u> make a passing reference to resources being "available (based both on technical availability and usage policy) to the specific terminal," this is not an explicit teaching of actively "obtaining state information," using such state information to evaluate availability <u>of</u> <u>the</u> <u>user</u>-<u>authorized</u> resources, or generating a "list of a set of entitled resources for the user." At most, <u>Marks et al</u> know (from the terminal profile) the "applications available" or the "network connections" to that terminal. This static configuration appears to be the "technical availability" to which the inventors there refer; a preferred embodiment of the subject disclosure, in contrast, is directed to techniques that are much more active and dynamic. Thus, for example, in a system like <u>Marks et al</u>, a session privilege might well provide the authorized user with access to an application running on the terminal that, in fact, is currently overloaded and cannot provide the required or expected quality of service to the user. This possibility is now explicitly foreclosed by each amended claim, which now further requires the limitation of "preventing the user from accessing resources that are in the set of authorized resources but that are not in the set of entitled resources." Thus, in the subject disclosure, the "state" of such an application (namely, the "application running on the terminal in <u>Marks et al</u>) would be exposed to the system and, as a consequence, the application would be <u>omitted</u> from the "set of entitled resources." In this manner, the subject disclosure provides a more valuable experience to the end user, whose expectations are not frustrated when trying to access a normally authorized resource that, for system or other reasons, is not then available.

The Manual of Patent Examining Procedure (MPEP) § 2131 provides that a "claim is anticipated <u>only</u> if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. … '<u>The identical invention must be shown in as complete detail as contained in the … claim</u>.' The elements must be arranged as required by the claim." (citations omitted, emphasis supplied). <u>Marks et al</u> do not meet this rigid requirement because, as noted above, the reference does not disclose <u>at</u> <u>least</u> the following functions:

"obtaining state information about the set of authorized resources;"

"evaluating availability of the set of authorized resources based upon the state information about the set of authorized resources;"

"generating a list of a set of entitled resources for the user in response to evaluating availability of the set of authorized resources;" or

"preventing the user from accessing resources that are in the set of authorized resources but that are not in the set of entitled resources."

## Rule 104 has not been satisifed

One other point deserves mention. In reviewing the final Office action, it was noted that the Examiner did not provide any reasons or arguments as to the specific subject matter of dependent claim 4, 11 or 18 (which subject matter is now in the amended independent claims). Under 37 CFR §1.104(b), an Office action must be complete as to all matters; moreover, under Rule 1.104(c), the "pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified." Here, the Examiner has not identified how the "preventing the user from accessing resources that are in the set of authorized resources but that are not in the set of entitled resources" functions is present in the cited reference. It is not, for the reasons previously advanced.

## The dependent claims are also patentable

Dependent claims 2, 9 and 16 are each separately patentable because, in addition to not generating a list of entitled resources, Marks et al. do not disclose or suggest "sending an indication of the set of entitled resources to the user." Figure 5B illustrates an embodiment of this feature.

Dependent claims 3, 10 and 17 are each patentable for the reasons set forth above in connection with the respective parent independent claim.

Dependent claims 5, 12 and 19 are each patentable for the reasons set forth above in connection with the respective parent independent claim.
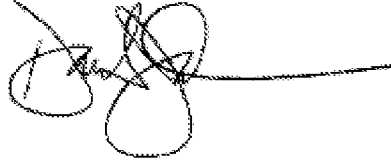
Dependent claims 6, 13 and 20 are each separately patentable because Marks et al. do not evaluate the "state" of any user-authorized resources, so they do not have any reason to (and, in fact, do not) use "a configurable rule" in connection therewith. There is nothing in Marks et al. that remotely discloses or suggests this particular claimed feature.

Likewise, dependent claims 7, 14 and 21 are each separately patentable because Marks et al. do not obtain "state information," let alone do so using a "distributed monitoring application."

For the above reasons, the anticipation rejection should be withdrawn.

A Notice of Allowance is requested.

Respectfully submitted,

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